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DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RIGHTS

1636 West North Temple, Suite 220  
Salt Lake City, Utah 84116-3156  
801-538-7240

April 26, 1989

Mr. Bruce Hall  
722 East Scenic Drive  
Spanish Fork, Utah 84660

RE: Spanish Fork River Distribution System

Dear Mr. Hall:

I have done some research to determine the Division of Water Rights position concerning the water rights we discussed during our meeting on April 7th.

The first issue we discussed concerned the right for stockwatering on a ditch which you claim has been left out of the proposed determination on the Spanish Fork River. I believe this question relates to water user claim no. 357 under which water can be diverted from Thistle Creek into the Siler Mitchell Ditch. To my knowledge, this is the only right on Thistle Creek in the name of Don or R. L. Mitchell that does not have stockwater associated with it. I discovered a paper on our files which I believe bears on water user claim no. 357. It was prepared in 1935 by the water commissioner and river committee concerning the water rights of some users on the Spanish Fork River. These users were not included in the Court Decree of 1899 on the Spanish Fork River but were thought to have some claim on the river. The paper outlines the rights which the committee decided should be allowed to these users. Among those mentioned are R. L. Mitchell and D. A. Mitchell whose diversion from Thistle Creek was described as approximately 1 mile south of Clinton. The use of the water for R. L. and Don Mitchell at this diversion was limited by the Committee to irrigation only. It seems this is the basis for our decision to leave stockwatering off of water user claim no. 357. In addition, Mr. Harold Donaldson, who prepared the proposed determination, left some notes indicating a Court decision would be necessary to fully determine whether there was a stockwatering right associated with this water user claim or not. Therefore, we feel stockwatering should not be allowed under water user claim no. 357 until a court decision to the contrary is issued or until more definite documentation of a right under that water user claim can be provided.

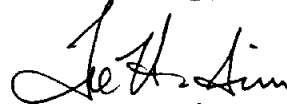
To answer your question of when you can take water under the right described in water user claim no. 590, I have prepared a small priority schedule covering Mitchell Spring Stream. You'll note Don Mitchell's right falls fairly near the bottom of the schedule. It appears that Don Mitchell has a right to 5% of the stream flow over 8.4 cfs. but is limited to a total flow of .2 cfs.

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You were also concerned that water user claim no. 358 seems inconsistent with the Tuckett Decree. The notes from Mr. Donaldson concerning the protest on the claim indicate that a court decision will be necessary. I have been unable to find a copy of the Tuckett Decree in our office and so I cannot provide more of an answer for you at this time. If I obtain a copy of that decree, I'll certainly make an effort to answer your question.

I hope this information will help you understand the position of the Division of Water Rights concerning these specific water rights issues. If you have any further questions, please feel free to contact me at 538-7380.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lee H. Sim".

Lee H. Sim, P. E.  
Directing Engineer  
Adjudication/Distribution

IHS:cj

cc: Lynn Mendenhall  
Ed Felt, P. E.